United Nations S/2003/483

Security Council

Distr.: General
28 April 2003

Original: English

Letter dated 14 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 July 2002 (S/2002/818).

The Counter-Terrorism Committee has received the attached supplementary report from the Republic of Djibouti, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for this letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-34573 (E) 120503 190503

Annex

[Original: French]

Note verbale dated 2 April 2003 from the Permanent Mission of Djibouti to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Republic of Djibouti to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1373 (2001) and has the honour to transmit to it herewith the supplementary report of Djibouti on the implementation of the provisions of Security Council resolution 1373 (2001) concerning counter-terrorism.

Enclosure

Supplementary report of Djibouti on the implementation of the provisions of Security Council resolution 1373 (2001) concerning counter-terrorism*

Further to its initial report, the Government of the Republic of Djibouti would like to provide the following clarifications requested by the Counter-Terrorism Committee on different points concerning the implementation of Security Council resolution 1373 (2001).

Paragraph 1

Could Djibouti please outline the legal provisions in its current laws that give effect to the requirements of this paragraph?

The legal provisions in the current laws of the Republic of Djibouti that give effect to the requirements of this paragraph of resolution 1373 are as follows:

Chapter V, article 167 of the Penal Code concerning terrorism defines terrorism as:

> "The following offences shall constitute terrorist acts if they are connected with an individual or collective transaction aimed at seriously disrupting law and order through intimidation and terror:
>
> - Wilful attacks causing loss of life, wilful attacks on the physical integrity of persons, kidnapping and abduction, and hijacking of aircraft, vessels or any other means of transport;
> - Theft, extortion, vandalism and other kinds of destruction, criminal damage and waste, as well as computer-related offences."

Article 168 further provides that: "the introduction into the atmosphere, the subsoil or waters, including the sea, of substances likely to endanger the health of men or animals or to be harmful to the environment shall also constitute an act of terrorism."

These provisions are contained in articles 167 to 171 of the Penal Code, which spell out the penalties for the above-mentioned offences. In that regard, please refer to Chapter V on terrorism, which is annexed hereto.

Act No. 196/AN/02/4èmeL of 29 December 2002 on Money-Laundering, Confiscation and International Cooperation with respect to the proceeds from crimes, criminalizes the wilful provision or collection, by any means, directly or indirectly, of funds by nationals of Djibouti in Djibouti territory, with the intention that the funds are to be used to carry out terrorist acts.

With the adoption of this Act, the Republic of Djibouti now has all the legal and criminal legislation required, pursuant to paragraphs 1 (a), (b), (c) and (d) of resolution 1373 (2001), to prevent and suppress the financing of terrorist acts.

* The annexes are on file with the Secretariat and are available for consultation.

In that regard, for further information, please find annexed hereto that Act, which was enacted and promulgated pursuant to resolution 1373 in order to supplement national legislation on the prevention and combating of terrorism.

Please indicate whether the National Committee on Counter-Terrorism has finalized its views on the harmonization of domestic laws with the requirements of the resolution and describe the outcome of that exercise.

The National Counter-Terrorism Committee was established after the adoption of resolution 1373 under the leadership of the Minister of Justice. It is composed of all the relevant Government departments, i.e., the Ministry of Foreign Affairs, the Central Bank, the army, the police and the National Security Department. Its first task was to restructure the entire security apparatus to create synergy among all actors in the security sector. With regard to the harmonization of legislation, the Committee recommended the adoption of Act No. 196/AN/02/4ème L of 29 December 2002 on Money-Laundering, Confiscation and International Cooperation with respect to the proceeds from crimes to complete the legislative and penal arsenal.

The Committee is currently reviewing all the international instruments to which Djibouti is not a party in the light of domestic law and will shortly make a recommendation concerning our accession.

Please indicate whether financial institutions and other intermediaries (e.g. lawyers), are legally required to report suspicious transactions to the relevant public authorities. If so, what are the penalties for non-compliance?

Title II, chapter I, article 2-1-2 of Act No. 196/AN/02/4ème L on Money-Laundering, Confiscation and International Cooperation with respect to the proceeds from crimes promulgated on 29 December 2002, provides that the Act covers "credit institutions, financial institutions and intermediaries, as well as any natural or legal person who, in the course of his profession, carries out, supervises or advises on transactions involving the deposit, exchange, investment, conversion or any other movement of funds."

That article further provides that the Act also applies to "all transactions, money changers, insurance companies, investment firms, agents dealing in the sale or rental of real estate or businesses, notaries, accountants, auditors, auctioneers as well as casinos and gambling establishments."

Under this regulation, the above-mentioned establishments are required to effect funds transfers above 1 million Djibouti francs (there is a fixed parity of US$ 1.00 to 177 Djibouti francs) through a credit or financial institution pursuant to title II, article 2-1-3, of the present Act.

Credit and financial institutions shall verify the identity of:

- Customers;
- Casual customers, even where the amount involved is less than 1 million Djibouti francs, if the origin of the funds is not clear;
- Economic beneficiaries, including attorneys and agents, who may not invoke confidentiality as grounds for not revealing the identity of the principal.

For further information, please refer to the present Act annexed hereto, especially to title II, chapter II thereof, on transparency in financial transactions.

The occupations subject to this Act are required to cooperate and collaborate with the authorities responsible for combating money-laundering, especially the Financial Intelligence Service, which may require any public authority and any natural or legal person covered by article 2-1-1 to divulge such information as it may deem relevant to carry out investigations, once a suspicious transaction report has been filed.

Title III, article 3-1-4, on the reporting of and requirement to report suspicious transactions provides that: "Any natural or legal person referred to in article 2-1-1 shall report to the Financial Intelligence Service the transactions covered by article 2-1-1 when they concern funds suspected of being proceeds from money-laundering or being connected with the financing of terrorist activities."

The Act is clear and provides for coercive measures, including the prohibition to invoke banking or professional secrecy, in case of failure to cooperate or report suspicious transactions. The penalties for non-cooperation or non-compliance with that regulation are set out in title IV, chapter II, article 4-2-5 of which provides for "five to ten years of imprisonment and a fine of 25 to 50 million Djibouti francs". Subparagraph (g) lays down penalties for "those who fail to report the suspicious transactions covered by article 3-1-4, where circumstances suggested that a particular transaction might be the proceeds from one of the offences covered by the present article."

The Act on Money-Laundering, Confiscation and International Cooperation with respect to the proceeds from crimes, complies fully with paragraph 1 of the resolution, since it concerns prevention, suppression and international cooperation with respect to combating the use of the proceeds from crime and terrorist financing.

Please provide a progress report on the steps taken by Djibouti to implement the proposals mentioned in the report that contribute to compliance with this paragraph.

Aware of its geographical and strategic location, the Republic of Djibouti has, in addition to the legislation it has enacted, and because of its desire to play a very active role in the eradication of this scourge, signed bilateral agreements with a number of member States of the global counter-terrorism coalition, allowing them to establish bases in its territory to monitor the activities of terrorist organizations. Such agreements were signed with the Federal Republic of Germany, Italy, Spain, the United States of America, in addition to already existing cooperation agreements with France.

Paragraph 2

Have proposals been formulated to amend existing legal provisions with a view to bringing them into line with the requirements of subparagraphs 2 (a) to (g) of the resolution? Please provide an outline of the proposals made in this regard.

The Republic of Djibouti has never provided any support to entities involved in acts of terrorism and Djiboutian law imposes severe penalties for such acts. The exchange of information with countries of the coalition and countries in the

subregion has been intensified. In line with its policy of non-interference and of having friendly relations with neighbouring countries, the Republic of Djibouti has never sheltered or supported terrorist entities.

In that regard, concerning the financing of terrorism and international cooperation, please refer to the chapter on sanctions of the Act on Money-Laundering, which punishes the conversion, transfer, concealment of the nature of proceeds from crimes; and the possession, use or search for financing for terrorist activities, as well as to title V on international cooperation. Chapter I of the latter concerns requests for mutual assistance in criminal matters; chapter II concerns extradition, while chapter III is on provisions common to requests for mutual assistance in criminal matters and extradition.

As far as paragraph 2 (b) is concerned, please refer also to the response below.

Paragraph 3

Please outline the measures and procedures adopted or proposed to be adopted to meet the requirements of subparagraphs 3 (a), (b) and (c) of the resolution.

In order to address the concerns expressed in paragraph 3 (a), (b) and (c) of resolution 1373, the Government began by taking administrative measures to ensure the safety of persons and property in the event of a terrorist act; these include:

- Strengthening police procedures at border points (air, land and sea);
- Providing adequate training for the airport, frontier, Government services, immigration and criminal investigation police;
- Strengthening security at public buildings and other structures, diplomatic missions and military bases;
- Strengthening the detection and prevention capacities of security officers in cooperation with friendly countries which have experience in this field, such as France and the United States of America; and
- Organizing awareness-raising workshops for judges and officers of the Gendarmerie and the national police.

In light of the presence of the counter-terrorism coalition in the territory of Djibouti, the exchange of information between the national security services and friendly countries (such as France and the United States of America) and with the International Criminal Police (Interpol) has also been strengthened.

For example, the airport and frontier police, which interrogates foreigners in possession of forged documents or forged visas, has arrested such persons and reported the incidents to the embassies of the countries in question and to the national office of Interpol.

The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by Djibouti in:

- **becoming a party to the instruments to which it is not yet a party; and**
- **enacting legislation, and making other necessary arrangements, to implement the instruments to which it is a party.**

With respect to the following table on counter-terrorism conventions and protocols, the National Counter-Terrorism Committee is reviewing all the legal instruments to which Djibouti is not a party in order to make recommendations to the Government, which will submit them for approval by Parliament. The Republic of Djibouti is also a party to the Rome Statute of the International Criminal Court.

Titles of the conventions	*Signature by Djibouti*	*Ratification by Djibouti*	*Entry into force*
1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14/09/63	10/06/92	08/09/92	04/11/63
2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16/12/70		24/11/92	14/10/71
3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23/09/71		24/11/92	26/01/73
4. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, signed at Montreal on 24/02/88	No	No	06/08/89
5. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14/12/73	Yes	No	20/02/77
6. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17/12/79	No	No	03/06/83
7. Convention on the Physical Protection of Nuclear Material, signed at New York and Vienna on 03/03/80	No	No	08/02/87
8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10/03/88	No	No	
9. Protocol to the previous Convention on the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10/03/88	Yes	No	06/08/89

Titles of the conventions	*Signature by Djibouti*	*Ratification by Djibouti*	*Entry into force*
10. Convention on the Marking of Plastic Explosives for the Purposes of Detection, signed at Montreal on 01/03/91	Yes	No	21/06/98
11. International Convention for the Suppression of Terrorist Bombings, adopted by the United Nations General Assembly on 15/12/97	No	No	23/05/01
12. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 09/12/99	15/11/01	No	Not yet
13. Arab Convention on the Suppression of Terrorism	22/04/98	21/10/01	21/11/01
14. OAU Convention on the Prevention and Combating of Terrorism, adopted at Algiers on 14/07/99	No	No	
15. Vienna Convention on the Law of Treaties, done at Vienna on 23/05/69	No	No	

Please outline the measures in place to ensure compliance with subparagraphs 3 (f) and (g) of the resolution.

In accordance with international law and with its domestic legislation, the Republic of Djibouti takes all necessary precautions in considering requests for asylum on a case-by-case basis. This asylum request procedure is implemented by the Ministry of the Interior, which is responsible for taking a decision on applications for refugee status and considers them on a case-by-case basis after a full investigation; these requests are extremely rare and concern only politically motivated migration within the subregion.

Is there a law on extradition in Djibouti, or is extradition governed only by bilateral treaties?

Djibouti's Penal Code includes extradition regulations; the general principles in that area are contained in articles 533 to 562 of the Code, which are annexed hereto.

In addition to these general principles, the Republic of Djibouti has also concluded extradition conventions with the following States: France, the Federal Democratic Republic of Ethiopia and Yemen.

In that connection, the Republic of Djibouti is also a party to the Rome Statute of the International Criminal Court.

Paragraph 4

Has Djibouti addressed any of the concerns expressed in paragraph 4 of the resolution?

One of the principal reasons for the adoption of the Act on Money-Laundering, Confiscation and International Cooperation with respect to the proceeds of crimes is to address this concern since transnational organized crime, money-laundering and terrorist acts are intrinsically linked and terrorism can be prevented by preventing the financing thereof. The Republic of Djibouti is an active participant in efforts to combat terrorism at the regional, continental and international levels.